THE HON'BLE DR. JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 14223 of 1994

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DATED: 17.11.2005

Between:

N. Narayana

… PETITIONER

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AND

The President, Nizamabad District Cooperative

Central Bank, Nizamabad & others.

… RESPONDENTS

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THE HON'BLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14223 of 1994

ORDER:-

This writ petition has been filed by the petitioner seeking to declare his date of birth as 12.11.1940 instead of 10.10.1936, and consequently entitled to continue

in service till he attains the age of supperannuation with all consequential benefits.

The grievance of the petitioner is that he was working as a Clerk in the respondent Bank by the date of filing of the writ petition. His date of birth was entered as 10.10.1936 in the service register on the basis of the school records. Subsequently, he came to know that it was not his correct date of birth and his correct date of birth was 12.11.1940. After coming to know about it, he approached the educational authorities and requested to correct his date of birth as 12.11.1940, but they did not take any action in the matter. Therefore, he filed O.S.No.260 of 1989 on the file of District Munsiff Court at Nizamabad and the learned Judge dismissed the same on 30.04.1991 holding that the suit is bad for non-joinder of the employer as a necessary party. Aggrieved by the said judgment, he preferred A.S.No.22 of 1992 on the file of the District Judge, Nizamabad, and the same was also dismissed on the ground that the Civil Court has no jurisdiction to entertain the suit for correction of date of birth and confirmed the judgment of the lower Court in O.S.No.260 of 1989. The petitioner therefore, approached this Court by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

The petitioner's date of birth was admittedly mentioned as 10.10.1936 in the school records and the service register. He contends that it was wrongly mentioned as 10.10.1936 though his correct date of birth was 12.11.1940. In support of his contention he relied on a Janma Patrika said to be written at the time of his birth mentioning his date of birth as 12.11.1940. The petitioner did not advert to any other record to show that his correct date of birth was 12.11.1940. The petitioner concedes that he did not verify the correctness of the date of birth entered in the school records and the service register till he is about to reach the age of supperannuation.

Whether the petitioner was born on 10.10.1936 or 12.11.1940 is the disputed question of fact.

In the absence of sufficient material, it is not desirable for the Writ Court to do this exercise by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India. The petitioner is therefore not entitled to maintain the writ petition to resolve the disputed question of fact by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No order as to costs.

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17.11.2005

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